IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Crl.Rev.Pet.No. 3207 of 2007()

CRA.NO.444 OF 2006 OF III ADDL. SESSIONS JUDGE (ADHOC) FAST TRACK COURT NO. I, THRISSUR IN C.C. 178 OF 2001 OF J.F.C.M. KUNNAMKULAM

REVN. PETITIONER: APPELLANT/ACCUSED

SIVAN,S/O. THIYYIN,KIZHAKKETHIL VEETIL,
KARAKKAD KANJIRAMUCK,MARANCHERY.

BY ADV. SRI.RAJIT

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 3207 of 2007

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Dated: 17th September 2007

ORDER

Revision petitioner stands convicted for offences punishable under Sections 279 and 338 I.P.C. He has been sentenced to simple imprisonment for six moths each for the aforesaid offences.

2. The case of the prosecution is that on 3-1-2001 at about 10 a.m. the revision petitioner drove a stage carriage bus bearing Reg. No. KL.10.J.5556 in a rash and negligent manner so as to endanger human life and hit against the bicycle driven by P.W.1 resulting P.W.1 falling down sustaining grievous injuries including fracture of his right leg.

3. On the side of the prosecution, 10 witnesses were examined as P.Ws 1 to 10 and 6 documents were got marked as Exts.P1 to P6.

4. After the close of the prosecution evidence, the revision petitioner was questioned under Sec. 313 (1)(b) Cr.P.C. He denied the incriminating circumstances put to him and maintained his innocence. He examined two witnesses as DWs 1 and 2 who were passengers in the stage carriage bus to show that P.W1 the cyclist was at fault.

5. The learned Magistrate, after trial, as per judgment dated 16-6-2006 found the revision petitioner guilty of the offence and sentenced him to imprisonment as aforesaid. An appeal preferred by him as Crl. Appeal No.444/2006 before the Addl. Sessions Court, Thrissur was unsuccessful. Hence this Revision.

6. Eventhough the learned counsel appearing for the revision

petitioner assailed the conviction recorded by the courts below on various grounds, I am not inclined to interfere with the conviction which has been entered after a careful appreciation of the oral and documentary evidence in the case. In the absence of any infirmity in the appreciation of evidence by the courts below, this Court sitting in revision will be loathe to interfere with the conviction recorded by the courts below and the same is accordingly confirmed.

7. What now survives for consideration is the question of sentence imposed on the revision petitioner. It appears that the courts below have been insensitive to the need to compensate the victim. Notwithstanding the verdict of the Apex Court in **Hari Krishnan and State of Haryana v. Sukbhir Singh and Others - AIR 1988 SC 2127** directing all the criminal courts in the country to liberally exercise the power under Sec. 357 (3) so as to compensate the victims of crimes, the courts below have not been alive to of the said mandatory requirement.

On the facts and circumstances of the case, I do not think that the revision petitioner deserves penal servitude by way of incarceration. Accordingly, for the conviction under Sec. 279 I.P.C. the revision petitioner is directed to pay a fine of Rs. 5,000/- (Rupees five thousand only) and on default to pay the fine to suffer simple imprisonment for one month and for the conviction under Sec. 338 the revision petitioner is directed to suffer simple imprisonment till rising of the court and to pay compensation of Rs. 8000/- (Rupees eight thousand only) to P.W.1 under Sec. 357 (3) Cr.P.C. On default to pay the compensation, he shall suffer simple imprisonment for two weeks. The fine as well as compensation shall be deposited before the trial court within 45 days. Out of the fine amount a sum of Rs.

2,000/- shall also be paid as compensation to P.W.1 under Sec. 357 (1) Cr.P.C.

This revision is disposed of confirming the conviction entered but modifying the sentence as aforesaid.

V. RAMKUMAR,
(JUDGE)

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